

Implementation of the Legal Entity of Foundations in the Governance of Education Provision

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Abstract. *This study aims to analyze the implementation of the legality of foundation legal entities in the organization of educational units, the implementation of legality in fulfilling the principles of legal certainty and authority from the perspective of State Administrative Law, and the implications of foundation legality on the governance of educational provision. The research method used is empirical juridical with a statutory approach and a conceptual approach. Data were obtained through literature studies, documentation, and interviews, then analyzed qualitatively. The results of the study indicate that the implementation of the legality of foundation legal entities has been carried out through the fulfillment of institutional legality, operational legality, organizational structure, and foundation administration in accordance with the provisions of laws and regulations. This implementation supports the realization of legal certainty and clarity of authority in the organization of education. In addition, the legality of foundations has positive implications for the governance of educational provision by strengthening organizational accountability, administrative order, legal protection, and the sustainability of educational provision. Thus, the legality of foundation legal entities not only functions as an administrative requirement, but also as an important instrument in realizing effective, accountable, and sustainable educational governance.*

Keywords: Administrative; Educational; Foundations; Governance.

1. Introduction

Education is one of the main instruments in realizing the goals of the state as mandated in the Preamble to the 1945 Constitution of the Republic of Indonesia. In its implementation, education is not only the responsibility of the government, but also involves community participation through educational institutions run by foundations. The existence of foundations as legal entities has a strategic function because it serves as a legal vehicle that provides legitimacy to the implementation of education while ensuring the sustainability of the governance of educational institutions. Muntaha and Octarina explained that the regulation of foundations

as non-profit organizations aims to maintain the social orientation of the foundation so that it remains in line with the purpose of its formation and does not shift into a profit-oriented organization.¹The importance of legal certainty in the administration of an institution is in line with Sri Kusriyah's opinion which states that synchronization of policies and legal regulations is necessary to realize administrative order and legal certainty in the implementation of the institution's authority.²

The legality of a foundation's legal entity plays a crucial role in creating legal certainty for the provision of education. This legality relates not only to the existence of a deed of establishment and legal entity ratification, but also encompasses the fulfillment of various administrative and operational aspects that form the basis for implementing educational activities. From a state administrative law perspective, every action of an education provider must have a clear basis of authority to ensure legal certainty and orderly administration. Rahayu and Istinah emphasize that the existence of clear regulations is a crucial instrument in ensuring the effective implementation of authority and providing legal protection for legal entities carrying out state administrative functions.³

Although regulations regarding foundations are stipulated in Law Number 16 of 2001 concerning Foundations, as amended by Law Number 28 of 2004, in practice, gaps remain between normative provisions and implementation. Many educational foundations possess formal legal standing, yet remain unable to fully implement the principles of good governance in the provision of education. This situation demonstrates that the existence of legal standing is not necessarily accompanied by effective implementation of institutional functions and optimal implementation of organizational authority. This phenomenon demonstrates a gap between *das sollen* and *das sein* in the implementation of foundation-based education.

Issues of legality and legal certainty are crucial issues in state administrative law. Lingga explained that legal certainty is a fundamental element in the implementation of administrative law because it guarantees clarity of legal status, the exercise of authority, and the protection of the legal rights of the

¹Nur Rahmad Muntaha and Nynda Fatmawati Octarina. "The Limitations of the Non-Profit Concept in the Foundation Law." *Jurnal Daulat Hukum* Vol. 8, No. 1 (2025), url: <https://jurnal.unissula.ac.id/index.php/RH/article/view/44614> accessed June 3, 2026

²Sri Kusriyah, "Spatial Synchronization and Territorial Planning Policies between Regions and National Spatial Planning", *Journal of Sovereign Law*, Vol. 4, no. 2 (2021), p. 109, url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/15714>, accessed June 3, 2026.

³Sri Rahayu and Siti Rodhiyah Dwi Istinah. "An Urgency To Establish Regulations For Implementing State Administrative Justice Law". *Law Development Journal* Vol. 3, Issue 2 (2021), p. 184, url: <http://jurnal.unissula.ac.id/index.php/ldj/article/view/15969> accessed June 3, 2026.

parties.⁴Therefore, the implementation of the legality of a foundation's legal entity cannot be seen as merely an administrative fulfillment, but must be understood as an instrument that provides legitimacy to all educational activities.

Previous research has addressed various aspects of legality and authority in state administrative law. Amalia and Suharto examined the legal consequences of positive fictitious decisions in government administration, demonstrating the importance of legality as a basis for the implementation of state administrative authority. Meanwhile, the implementation of authority that does not comply with legal and ethical principles has the potential to create legal uncertainty and undermine public trust in institutions that carry out public service functions. However, these studies focused more on aspects of government administration and did not specifically examine the implementation of the legality of foundation legal entities in the governance of education.

Based on previous research, there are differences in focus between this study and the current study. The novelty of this study lies in the analysis of the implementation of the legality of foundation legal entities as an instrument that not only provides legal recognition for organizations but also plays a role in realizing legal certainty, exercising authority, and managing education. This study combines the perspectives of foundation law and state administrative law in analyzing the relationship between legal entity legality and the effectiveness of education governance.

This study aims to analyze the implementation of the legality of foundation legal entities in the governance of education as an effort to realize legal certainty, implementation of authority, and effective and accountable education governance.

2. Research Methods

This research uses an empirical legal method with a legislative and conceptual approach. Data sources consist of primary and secondary data obtained through interviews, documentation, and literature review. Data were analyzed qualitatively.

⁴Firdo Lingga. "The Application of Legal Certainty on Electronic Certificates in Indonesian Agrarian Law". *Journal of Legal Sovereignty* Vol. 6, no. 4 (2023), url:<http://jurnal.unissula.ac.id/index.php/RH/>accessed June 3, 2026

3. Results and Discussion

3.1. Implementation of the Legality of the Foundation's Legal Entity in the Governance of Education Provision

The Roudlotul Makhfudz Foundation is a legal entity that operates in the social, religious and educational fields.⁵ This foundation is domiciled in West Kotawaringin Regency, Central Kalimantan Province. This foundation was established based on Deed of Establishment Number 29 dated May 17, 2018 and has obtained legal entity approval from the Minister of Law and Human Rights of the Republic of Indonesia Number AHU-0007045.AH.01.04 of 2018. With this approval, the foundation has a position as a legal entity according to the provisions of Law Number 16 of 2001 concerning Foundations as amended by Law Number 28 of 2004. In addition, the foundation has an organizational structure consisting of Trustees, Management, and Supervisors and organizes formal education and Islamic boarding school education through the operational legality it has.

The research results show that the implementation of the foundation's legal entity has been carried out through the fulfillment of institutional legality aspects in the form of a deed of establishment, legal entity ratification, foundation organizational structure, institutional administration, and operational legality of educational units. This legality serves as the basis for the foundation in carrying out its educational administration function and taking various legal actions related to the management of educational institutions.⁶

When analyzed using the Legal Entity Theory put forward by Chatamarrasjid Ais, a foundation is a legal subject that has its own rights and obligations separate from its founder.⁷ Therefore, the legalization of the Roudlotul Makhfudz Foundation's legal entity demonstrates that it has the legal legitimacy to carry out legal actions independently, including providing education, managing assets, and establishing legal relationships with other parties. Therefore, the foundation's legal status fulfills the elements of a legal entity as defined in the legal entity theory.

Furthermore, when analyzed using the Theory of Legal Effectiveness put forward by Soerjono Soekanto, legal effectiveness is influenced by legal factors, law enforcement, facilities and infrastructure, society, and legal culture.⁸ This study found that the foundation's legal implementation has been effective, supported by a clear legal basis, a functioning organizational structure, support from

⁵Law Number 16 of 2001 concerning Foundations in conjunction with Law Number 28 of 2004.

⁶Nur Rahmad Muntaha and Nynda Fatmawati Octarina. "The Limitations of the Non-Profit Concept in the Foundation Law". *Jurnal Daulat Hukum* Vol. 8, No. 1 (2025), p. 63. <https://jurnal.unissula.ac.id/index.php/RH/article/view/44614>, accessed June 3, 2026.

⁷Chatamarrasjid Ais. *Foundation Legal Entity*. Bandung: Citra Aditya Bakti, 2002, p. 27.

⁸Soerjono Soekanto. *Factors Influencing Law Enforcement*. Jakarta: RajaGrafindo Persada, 2008, p. 8.

education management, and public acceptance of the foundation's role as an education provider. However, there is still a need to strengthen organizational administration and institutional documentation to accommodate constantly changing regulations.

Based on this analysis, it can be understood that the implementation of the legal entity of the Roudlotul Makhfudz Foundation not only shows the fulfillment of formal institutional aspects, but also reflects the effectiveness of the implementation of legal provisions in the practice of providing education.

3.2. Implementation of Legality in Fulfilling the Principles of Legal Certainty and Authority from the Perspective of State Administrative Law

The principle of legality is a fundamental principle in State Administrative Law, requiring every action by a public activity organizer to have a clear legal basis. In the context of educational foundations, the legality of the legal entity serves as the basis for exercising the organization's authority and provides legal certainty for all educational activities.

The research results show that the Roudlotul Makhfudz Foundation has legal entity status and educational operational status, which serve as the basis for implementing its educational functions. The existence of a deed of establishment, legal entity approval, and educational operational permit demonstrates that all educational activities carried out by the foundation have clear legal legitimacy. Furthermore, the organizational structure, consisting of the Board of Trustees, Management, and Supervisors, has carried out its functions and authorities in accordance with the provisions of the Foundation's Articles of Association and applicable laws and regulations.⁹

When analyzed using the Legal Certainty Theory put forward by Gustav Radbruch, the law must be able to provide clarity, consistency, and protection for legal subjects.¹⁰ In this study, legal certainty is reflected in the clarity of the foundation's legal status, the legality of its educational provision, and the clarity of the legal relationship between the foundation and the educational units under its management. This legality provides legal assurance to students, educators, foundation administrators, and the community that the educational activities carried out have a valid legal basis.

Furthermore, the implementation of legality can also be analyzed using the Theory of Authority proposed by Philipus M. Hadjon. According to this theory, authority is the legal power granted by statutory regulations to legal subjects to perform

⁹Firdo Lingga. "The Application of Legal Certainty on Electronic Certificates in Indonesian Agrarian Law". *Journal of Legal Sovereignty* Vol. 6, no. 4 (2023), p. 316. url:<http://jurnal.unissula.ac.id/index.php/RH/>, accessed June 3, 2026.

¹⁰Satjipto Rahardjo. *Legal Studies*. Bandung: Citra Aditya Bakti, 2014, p. 19.

certain actions.¹¹This study found that the foundation's authority to provide education stems from the provisions of the Foundation Law and the National Education System Law. This authority is realized through the management of educational units, the appointment of teaching staff, the management of educational assets, and the ongoing implementation of educational activities.

Thus, the implementation of the foundation's legal entity has supported the realization of the principle of legal certainty and the exercise of legitimate authority in the provision of education. Legality not only provides formal recognition of the foundation's existence but also serves as a basis for legitimacy for all organizational actions in carrying out its educational function.

3.3. Legal Implications of the Foundation's Legal Entity for the Governance of Education Provision

The legality of a foundation's legal entity has significant implications for the governance of education delivery. Good educational governance requires a clear organizational structure, division of authority, an orderly administration system, and clear accountability mechanisms. Therefore, legal entity legality is a crucial instrument in building professional and sustainable educational governance.

The research results show that implementing foundation legality has a positive impact on organizational management and educational delivery. Clear legality supports orderly administration, clear division of duties and authority, increased organizational accountability, and the sustainability of educational delivery. Legality also provides legal protection for all parties involved in educational activities.¹²

When analyzed using the principles of Good Governance put forward by Sedarmayanti, good organizational governance must be based on the principles of transparency, accountability, responsibility, independence, and fairness.¹³This study found that the foundation's legality has supported the implementation of these principles through more orderly organizational management, a clear division of authority, and the availability of institutional documents that serve as the basis for organizational decision-making. These conditions have contributed to improving the quality of educational governance implemented by the foundation.

From the perspective of the Maqasid al-Syariah Theory developed by Al-Syatibi, the legality of the foundation also has a beneficial value because it supports the continuity of the implementation of education as a means of developing

¹¹Philipus M. Hadjon. *Introduction to Indonesian Administrative Law*. Yogyakarta: Gadjah Mada University Press, 2011, p. 130.

¹²Nur Rahmad Muntaha and Nynda Fatmawati Octarina. "The Limitations of the Non-Profit Concept in the Foundation Law". *Jurnal Daulat Hukum* Vol. 8, No. 1 (2025), p. 68.url:<https://jurnal.unissula.ac.id/index.php/RH/article/view/44614>, accessed June 3, 2026.

¹³Sedarmayanti. *Good Governance*. Bandung: Mandar Maju, 2012, p. 45.

knowledge and forming quality human resources.¹⁴The existence of clear legality provides a guarantee for the continuity of educational institutions so that the goal of maintaining reason (hifz al-'aql) and maintaining the welfare of society can be realized optimally.

Based on this analysis, it can be understood that the legality of a foundation's legal entity has broad implications for the governance of education. Legality serves not only to fulfill administrative requirements but also as an instrument for strengthening organizational accountability, creating legal certainty, improving the quality of education governance, and supporting the effective and sustainable implementation of education.¹⁵

4. Conclusion

This study shows that the implementation of the legal entity of the Roudlotul Makhfudz Foundation has been carried out through the fulfillment of institutional legality and operational legality in accordance with the provisions of applicable laws and regulations, so that the foundation has a legitimate legal standing in providing education. The implementation of this legality has supported the realization of the principle of legal certainty and the implementation of organizational authority as reflected in the clarity of the legal entity status, the division of tasks and functions of the foundation's organs, and the implementation of education based on legitimate authority. In addition, the legal entity of the foundation has positive implications for the governance of education through strengthening organizational accountability, orderly administration, clarity of institutional responsibilities, legal protection for parties, and the sustainability of education provision. Thus, the legal entity of the foundation not only functions as an administrative requirement, but also as an important instrument in realizing legal certainty, the implementation of authority, and effective, accountable, and sustainable education governance.

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¹⁴Abu Ishaq Al-Syatibi. *Al-Muwafaqat fi Ushul al-Syari'ah*. Beirut: Dar al-Kutub al-Ilmiyyah, Juz II, p. 8.

¹⁵Sri Rahayu and Siti Rodhiyah Dwi Istinah. "An Urgency To Establish Regulations For Implementing State Administrative Justice Law". *Law Development Journal* Vol. 3, Issue 2 (2021), p. 188. <http://jurnal.unissula.ac.id/index.php/ldj/article/view/15969>, accessed June 3, 2026.

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